

PROMPT PAYMENT ACT: ANALYSIS
OF EXPENDITURES MADE FROM
THE IRAQ RELIEF AND
RECONSTRUCTION FUND

SIGIR-06-002
FEBRUARY 3, 2006

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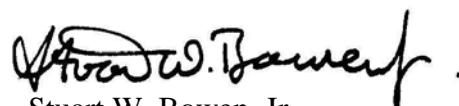
MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY FOR FINANCIAL MANAGEMENT AND COMPTROLLER

SUBJECT: Audit Report on Prompt Payment Act: Analysis of Expenditures Made from the Iraq Relief and Reconstruction Fund (SIGIR-06-002)

We are providing this audit report for your information and use. We performed the audit in accordance with our statutory duties contained in Public Law 108-106, as amended, which mandates the independent and objective conduct of audits relating to the programs and operations funded with amounts appropriated or otherwise made available to the Iraq Relief and Reconstruction Fund. Public Law 108-106, as amended, requires that we provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations and to prevent and detect waste, fraud, and abuse.

We considered management comments from the Office of the Assistant Secretary of the Army (Financial Management and Comptroller) on a draft of this report when preparing the final report. Comments on the draft of this report by that organization conformed to requirements and left no unresolved issues. Therefore, no additional comments are required.

We appreciate the courtesies extended to the staff. For additional information on this report, please contact Mr. Joseph T. McDermott at (914) 822-4618, or by email at joseph.mcdermott@iraq.centcom.mil; or Ms. Karen D. Bell at (703) 428-0147, or at karen.bell@sigir.mil. For the report distribution, see Appendix H.



Stuart W. Bowen, Jr.
Inspector General

Special Inspector General for Iraq Reconstruction

SIGIR-06-002

February 3, 2006

Prompt Payment Act: Analysis of Expenditures Made from the Iraq Relief and Reconstruction Fund

Executive Summary

Introduction. This audit report discusses the management and payment of interest penalties incurred resulting from provisions of the Prompt Payment Act by U.S. government organizations responsible for the management of the Iraq Relief and Reconstruction Fund.

Objective. The objective of this audit was to determine whether expenditures by U.S. government organizations responsible for the management of the Iraq Relief and Reconstruction Fund were made in compliance with the Prompt Payment Act and other applicable policies and regulations.

Results. During fiscal year 2005, approximately \$1.4 million in interest penalty payments were made by the Army against Iraq Relief and Reconstruction Fund disbursements of about \$5.275 billion made by Department of Defense organizations because of late payments of contractor invoices. This amount of interest exceeded an Army management goal, which stipulated that there be no more than \$85 in interest penalty payments for every million dollars disbursed; in this case that amount would have been \$448,381. However, the \$1.4 million in interest penalties paid amounted to about \$259 in interest penalties per million disbursed and exceeded the Army goal by 304 percent.

As a result, interest penalties paid to contractors from the Iraq Relief and Reconstruction Fund appropriation reduced, dollar-for-dollar, the availability of funds appropriated for the reconstruction of Iraq and for the benefit of the Iraqi people. If the Army achieves the current management goal of no more than \$85 in interest penalty payments for every million dollars disbursed, for the remaining Department of Defense Iraq Relief and Reconstruction Fund apportioned funds of approximately \$7.0 billion yet to be disbursed, the Army could avoid making interest penalty payments of more than \$1.2 million and make better use of those funds to support pressing relief and reconstruction needs.

Recommendation. We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller) identify and monitor interest penalty payments from Iraq Relief and Reconstruction Fund funds to ensure that Army organizations managing Iraq Relief and Reconstruction Fund funds consistently meet established Army goals.

Management Comments and Audit Response. The Office of the Assistant Secretary of the Army (Financial Management and Comptroller) concurred with the finding and recommendation and the comments to the recommendation are fully responsive.

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Introduction

Background

This audit report discusses the management and payment of interest penalties incurred resulting from provisions of the Prompt Payment Act by U.S. government organizations responsible for the management of the Iraq Relief and Reconstruction Fund.

Iraq Relief and Reconstruction Fund. The Congress has appropriated funds, through Public Law 108-11 and Public Law 108-106, for the humanitarian assistance, security, relief, rehabilitation, and reconstruction of Iraq. These appropriated funds are collectively known as the Iraq Relief and Reconstruction Fund (IRRF).

Public Law 108-11. Public Law 108-11 was enacted by the Congress on April 16, 2003, and provided funds totaling \$2.475 billion, to, among other things; begin the relief and reconstruction efforts in Iraq. However, according to the Iraq Reconstruction Management Office Weekly Status Report, dated September 27, 2005, only \$2.473 billion had been apportioned. For the purposes of this report, these funds are referred to as IRRF 1 funds.

These funds were appropriated to the President and were subsequently administered by the Office of Management and Budget (OMB) for apportionment to the Departments of State, Treasury, Defense, Health and Human Services,¹ and the U.S. Agency for International Development (USAID). The IRRF 1 funds were appropriated for necessary expenses incurred in providing humanitarian assistance in and around Iraq and for the rehabilitation and reconstruction of Iraq.

Public Law 108-106. Public Law 108-106 was enacted by the Congress on November 6, 2003, and provided funds totaling \$18.439 billion for the security, relief, rehabilitation, and reconstruction of Iraq. For the purposes of this report, these funds are referred to as IRRF 2 funds.

These funds were appropriated to the President, administered by the OMB, and apportioned to the U.S. government agencies discussed above. The purpose of IRRF 2 funds covered a broad spectrum of sectors² for the relief and reconstruction of Iraq.

Prompt Payment Act. Public Law 97-177, as amended by Public Law 100-496 (known as the Prompt Payment Act), are specified at 5 CFR³ § 1315 (2005) and required U.S. government organizations to make payments to contractors in a timely manner. Federal Acquisition Regulation Subpart--32.9, “Prompt Payment,” (March 2005) implemented the prompt payment requirements of 5 CFR § 1315.

¹ As of September 30, 2005, no official reports showed that IRRF 1 funds had been apportioned to the Department of Health and Human Services by the OMB.

² According to the Iraq Reconstruction Management Office Weekly Status Report, dated September 27, 2005, the sectors were Democracy; Education, Refugees, Human Rights, and Governance; Electric; Health Care; Justice, Public Safety, and Civil Society; Oil Infrastructure; Private Sector Development; Roads, Bridges, and Construction; Security and Law Enforcement; Transportation and Communications; and Water Resources and Sanitation.

³ Code of Federal Regulations.

U.S. Government Contractors. Relief and reconstruction efforts in Iraq were performed by U.S. and foreign private companies operating under contract to the various U.S. government agencies. Contracts were written in accordance with the provisions of Federal Acquisition Regulation Subpart-32.9, “Prompt Payment,” (March 2005), which provided for the payment of interest penalties if contractors were paid late through no fault of their own.

The regulation provides that if a contractor is paid late, the contractor is entitled to an interest penalty payment in addition to any funds owed for goods or services provided without having to request that interest payment. The regulation also provides that interest payments are made from the same appropriation identified for payment of the contractor’s invoice. Consequently, interest penalty payments reduce available funds that are appropriated for specific purposes. For details on the Prompt Payment Act and applicable federal regulations, see Appendix B.

U.S. Government Organizations Receiving Iraq Relief and Reconstruction Fund Funding. Five organizations received IRRF 1 funding; the Departments of State, Treasury, Defense, the USAID and the U.S. Trade and Development Agency. Six organizations received IRRF 2 funding; the Departments of State, Treasury, Defense, the USAID, the Overseas Private Investment Corporation, and the United States Institute of Peace. We discuss those U.S. government organizations below in the order of the amount of IRRF 2 funds apportioned or allocated.

Department of Defense. The Department of Defense (DoD) was apportioned \$518.3 million by the OMB from IRRF 1 and \$13.07 billion from IRRF 2. The DoD disbursed a total of approximately \$6.6 billion of IRRF funds for fiscal years 2003 through 2005. However, for the DoD, Army organizations were responsible for managing the IRRF funds and making the IRRF disbursements. For details on IRRF disbursements and interest penalties incurred, see Appendix C.

U.S. Agency for International Development. The USAID was apportioned \$1.819 billion by the OMB from IRRF 1 and \$3.0 billion from IRRF 2. The USAID disbursed a total of approximately \$2.9 billion of IRRF funds for fiscal years 2003 through 2005. For details on IRRF disbursements and interest penalties incurred, see Appendix D.

Department of State. The Department of State (DoS) was apportioned \$125.4 million by the OMB from IRRF 1 and \$1.18 billion from IRRF 2. The DoS disbursed a total of approximately \$1.04 billion of IRRF funds for fiscal years 2003 through 2005. For details on IRRF disbursements and interest penalties incurred, see Appendix E.

Department of the Treasury. The Department of the Treasury (Treasury) was apportioned \$6.0 million by the OMB from IRRF 1 and \$390.0 million from IRRF 2. The Treasury disbursed a total of approximately \$22.0 million of IRRF funds for fiscal years 2003 and 2004. No IRRF funds were disbursed for fiscal year 2005. For details on IRRF disbursements and interest penalties incurred, see Appendix F.

Overseas Private Investment Corporation. The Overseas Private Investment Corporation (OPIC) was allocated \$25.9 million in IRRF 2 funds by the USAID. The OPIC disbursed a total of \$25.9 million of IRRF funds for fiscal years 2004 and 2005. No IRRF funds were received or disbursed for fiscal year 2003. For details on IRRF disbursements and interest penalties incurred, see Appendix F.

United States Institute of Peace. The United States Institute of Peace (USIP) was apportioned \$10.0 million by the OMB from IRRF 2. The USIP disbursed a total of approximately \$6.9 million of IRRF funds for fiscal years 2004 and 2005. No IRRF funds were received or disbursed for fiscal year 2003. For details on IRRF disbursements, and interest penalties incurred, see Appendix F.

U.S. Trade and Development Agency. The U.S. Trade and Development Agency (USTDA) was apportioned \$5 million by the OMB from IRRF 1. The USTDA disbursed a total of approximately \$2.37 million of IRRF funds for fiscal years 2004 and 2005. No IRRF funds were disbursed for fiscal year 2003. For details on IRRF disbursements and interest penalties incurred, see Appendix F.

Objective

The audit objective was to determine whether expenditures by U.S. government organizations responsible for the management of the Iraq Relief and Reconstruction Fund were made in compliance with the Prompt Payment Act and other applicable policies and regulations.

For a discussion of the audit scope, methodology, and a summary of prior coverage, see Appendix A. For definitions of the acronyms used in this report, see Appendix G. For a list of the audit team members, see Appendix I.

Interest Penalty Payments

During fiscal year 2005, approximately \$1.4 million in interest penalty payments were made by the Army against IRRF disbursements of about \$5.275 billion made by DoD organizations because of late payments of contractor invoices. This amount of interest exceeded an Army management goal, which stipulated that there be no more than \$85 in interest penalty payments for every million dollars disbursed; in this case that amount would have been \$448,381. However, the \$1.4 million in interest penalties paid amounted to about \$259 in interest penalties per million disbursed and exceeded the Army goal by 304 percent.

This occurred because Army managers did not place sufficient emphasis on the identification and resolution of problems associated with high interest penalty payments; particularly the late receipt of required supporting documentation for the payment of invoices provided by the Project and Contracting Office (PCO)⁴ and the Gulf Region Division (GRD), a subordinate command of the U.S. Army Corps of Engineers (USACE), or certain vendors.

As a result, interest penalties paid to contractors from the IRRF appropriation reduced, dollar-for-dollar, the availability of funds appropriated for the reconstruction of Iraq and for the benefit of the Iraqi people. If the Army achieves the fiscal year 2005 management goal of no more than \$85 in interest penalty payments for every million dollars disbursed, for the remaining DoD IRRF apportioned funds of approximately \$7.0 billion yet to be disbursed, the Army could avoid making interest penalty payments of more than \$1.2 million and make better use of those funds to support pressing relief and reconstruction needs.

Department of Defense

Goals established by the Army to reduce the amount of interest penalty payments were not met by Army organizations responsible for the management of the majority of the DoD IRRF funds; the PCO and the GRD.

Army Responsibilities for the Management of the Iraq Relief and Reconstruction Fund. National Security Presidential Directive 36, “United States Government Operations in Iraq,” May 11, 2004, established the PCO and directed that it provide acquisition and project management support with respect to activities in Iraq, to include contract and grant related activities.

A DoD memorandum, “Organizational Establishment and Placement of the Project and Contracting Office within the Department of the Army,” issued by the Deputy Secretary of Defense on June 22, 2004, directed “that the PCO be organizationally established and placed within the Department of the Army to provide acquisition and project management support with respect to activities in Iraq, . . .”

The GRD was activated in January 2004 with three district offices throughout Iraq and a division headquarters office in Baghdad. In December 2005, the PCO was integrated with the GRD, and as a result, the GRD became the execution agency of the Iraq reconstruction program and provides engineering services to the Multi-

⁴ The PCO was merged into the USACE GRD on December 4, 2005.

National Force-Iraq and the Iraqi government in support of military and civil construction.

Army Interest Penalty Payment Management Goals. To address late payments to contractors and the associated interest penalty payments, the Office of the Assistant Secretary of the Army (Financial Management and Comptroller) (ASA [FM&C]) established goals to restrict interest penalty payments to a prescribed amount per million dollars disbursed. Army management was provided this metric to measure interest penalty payments, to investigate instances where they exceeded established goals, and to take appropriate action to reduce those payments.

On October 20, 2003, the ASA (FM&C) established a fiscal year 2004 interest penalty payment goal of \$96.44 (reduced from the \$120.00 baseline established in fiscal year 2003). Similarly, on November 12, 2004, the ASA (FM&C) established the fiscal year 2005 goal of \$85.00 per million dollars disbursed.

These annual management goals were provided to all Army major commands for implementation as part of the Joint Army Reconciliation Goals and Special Interest Initiatives. Interest penalty payment goals were of major importance to Army financial managers. To remind commanders and managers of the need to reduce penalty payments, the ASA (FM&C) also included the goal in the Army's Joint Reconciliation Program and presented performance data at reconciliation program meetings held three times a year.

Army Interest Penalty Payments. We obtained Army summary-transaction historical data on interest penalty payments made with expenditures of IRRF funds during fiscal years 2003 through 2005 to determine whether expenditures made by the Army were in compliance with the Prompt Payment Act. We determined that the Army paid interest penalty payments of \$4,723 in IRRF 1 funds and \$1,358,867 in IRRF 2 funds during fiscal year 2005.

We used financial data prepared by the Defense Finance and Accounting Service (DFAS), as of September 30, 2005, to obtain the amounts of interest penalty payments. The Chief, Army Managerial Accounting Division, at the DFAS provided us with assurances that the financial information on IRRF disbursements and interest penalty payments was accurate. Within the DoD, the PCO and the GRD incurred 99.62 percent⁵ of the interest penalty payments. For details on the total Army IRRF disbursements and interest penalties incurred, see Appendix C.

Once we identified the amounts of Army interest penalty payments for fiscal year 2005, we calculated the dollar amount of payments per million dollars disbursed. We determined that for fiscal year 2005, IRRF 1 and IRRF 2 interest penalty payments combined amounted to \$259 per million dollars disbursed and exceeded the Army's goal of \$85 per million dollars disbursed by 304 percent.

In addition, we determined that IRRF 1 interest penalty payments increased from \$253 or \$.55 per million dollars disbursed in fiscal year 2004, to \$4,723 or \$114.12 per million dollars disbursed in fiscal year 2005 and IRRF 2 interest

⁵ We determined that .38% of the Army IRRF interest penalties for fiscal year 2005 were paid under Operating Agency 71, "Office of Reconstruction and Humanitarian Assistance."

penalty payments increased from \$101,246 or \$117.06 per million dollars disbursed in fiscal year 2004, to \$1,358,867 or \$259.64 per million dollars disbursed in fiscal year 2005. These figures represent significant increases in the trends of interest penalty payments.

Army Reasons for Interest Penalty Payments. We reviewed interest penalty payments for fiscal years 2004 and 2005 using disbursement reports requested from the DFAS for IRRF 1 and IRRF 2 funds. These reports indicated that the late receipt of supporting documentation and delays in obtaining invoices provided by the PCO, the GRD, or certain vendors caused 92 percent of the interest penalty payments to occur. Reasons attributed to the cause of interest penalty payments are shown in Table 1.

Table 1. Reasons for Payment of Interest Penalties Payments for DoD (per the DFAS) Fiscal Years 2004 and 2005 IRR 1 and IRR 2		
Reason for Late Payments	Interest Penalty Payments	Percentage
Documentation Received Late	\$1,143,545	78
Delay in Obtaining Invoice	203,652	14
All Other Reasons	117,893	8
Total	\$1,465,089	100

More specifically, according to staff accountants at Headquarters, USACE Accounting and Finance Division, the predominant reasons for increased interest penalties were the late receipt of receiving reports and invoices and the late approvals of pay estimates by contracting officer representatives. In addition, those officials noted that there were invoices without matching receiving reports and receiving reports without matching invoices.

Army Management of Interest Penalty Payments. At Headquarters, USACE, we met with operating officials of the USACE Finance and Accounting Policy Division to determine why supporting documentation was submitted late by the PCO, the GRD, or certain vendors, and what steps were being taken to reduce interest penalty payments.

Officials at the USACE Finance and Accounting Policy Division asked the GRD for an explanation of the core cause for the late submissions of required supporting documents, the corrective actions being taken to eliminate the problem, and notified the commanders and senior staff at USACE of the interest penalty payment problem at the GRD during quarterly Command Management Reviews.

Based on discussions with USACE officials, and documentation provided, it appeared that the PCO interest penalty payment problem did not receive the same degree of managerial oversight as the GRD. We asked USACE Finance and Accounting Policy Division officials what actions had been taken to advise Army managers about the amount of interest penalty payments incurred by the PCO as a result of untimely payments. We were told that the USACE Finance and Accounting Policy Division advised managers in the PCO-Washington and the PCO-Baghdad offices of the amount of interest penalty payments being incurred. We confirmed this with resource management personnel in both PCO offices. However, we found that there was no evidence to show that the problems were elevated to PCO senior management.

Army Management Actions. During our audit, we discussed these matters with senior officials of the Office of the ASA (FM&C); the USACE Finance and Accounting Policy Division; the USACE Finance Center, the PCO; the GRD; and the DFAS. Management actions were initiated prior and subsequent to our audit work to address the problems noted. Specifically,

- In June and July 2005, the USACE Finance Center, in conjunction, with the USACE Finance and Accounting Policy Division, finalized the testing of four enhanced Corps of Engineers Financial Management System reports. Those reports were designed to provide daily status on missing or late supporting documents; such as missing obligation documents, progress payment certifications, receiving reports, and invoices. These reports were undergoing field trials at the PCO-Baghdad, the GRD, and other USACE divisions and districts at the time of our audit and were designed to alert PCO and GRD managers of specific documents urgently needed by the USACE Finance Center to avoid paying interest penalties.
- On June 21, 2005, the USACE Finance and Accounting Policy Division required the GRD to explain why the Army standard of \$85 per million dollars disbursed was exceeded and to submit a comprehensive corrective action plan to reduce interest penalty payments.
- On October 22, 2005, the PCO Comptroller made a special review of the organizations involved in PCO reconstruction projects and identified shortcomings and areas of concern. An effort was initiated by the PCO Comptroller to define the responsibilities of organizations and individuals involved in the process, utilize the enhanced Corps of Engineers Financial Management System reports, and task offices and individuals with specific responsibilities to manage the flow of IRRF supporting documents to disbursing organizations.
- On October 29, 2005, the Commander, GRD included interest penalty payments in his weekly situation reports as a matter of top priority for his command.
- On November 29, 2005, senior financial managers in the Office of the ASA (FM&C), alerted to the problems raised during our audit, agreed to make the reduction of IRRF interest penalty payments a key management

goal. They were prepared to institute necessary control mechanisms that provide greater visibility over interest penalties incurred to direct actions to reduce the amount of interest penalties.

Accounting for Interest Penalty Payments. The ASA (FM&C) convened three times during FY 2005 for meetings with the major Army commands to discuss the progress made towards goals established at the start of the fiscal year. Interest penalty payments were addressed at these meetings. However, the interest penalty payments were compiled by Army major commands for reporting to the Office of the ASA (FM&C) but were not broken out by the various appropriations utilized by a particular command.

The IRRF interest penalties at the PCO and the USACE were totaled along with the interest penalties incurred for all other appropriations used by those organizations.⁶ Because of this process, the IRRF interest penalties could not be identified separately at the ASA (FM&C) level and senior Army financial managers were not alerted that the IRRF interest penalty payments in fiscal year 2005 were among the highest in the Army. As a result, senior Army financial managers were unable to monitor IRRF interest penalty payments effectively to ensure that Army organizations using IRRF funds consistently met Army interest penalty goals.

Potential Monetary Benefits. Adherence to interest penalty management goals by Army financial managers has the potential to significantly reduce future expenditures of IRRF funds on interest penalty payments.

We requested Army financial reports from the DFAS for IRRF funds and computed the total IRRF funds disbursed by the Army as of September 30, 2005, for fiscal years 2003 through 2005. We compared the total Army disbursements to the OMB apportioned amounts for IRRF 1 and IRRF 2 and determined the total amount of the IRRF apportionment that remained to be disbursed by the DoD. The DoD IRRF apportioned funds that remained to be disbursed totaled approximately \$7 billion as of September 30, 2005.

Using those amounts, we estimated that the Army could avoid more than \$1.2 million in interest penalty payments over the balance of the life of the OMB IRRF 1 and IRRF 2 apportioned amounts (approximately \$7 billion as of September 30, 2005) by adhering to the fiscal year 2005 interest penalty payment management goal of \$85.00 per million dollars disbursed. This cost avoidance in interest penalty payments would permit the Army to put those funds to better use by devoting the funds to Iraq's pressing humanitarian and nation building needs.

Other U.S. Government Organizations

The USAID, the DoS, Treasury, the OPIC, the USIP, and the USTDA also disbursed IRRF funds for the relief and reconstruction of Iraq and, additionally,

⁶ For example, available fiscal year-end data showed that while USACE interest penalty payments were reported to senior Army financial managers under Operating Agency 08 (entitled U.S. Army Corps of Engineers), the total interest penalty payments paid with IRRF funds were included along with interest penalties paid by all other USACE subordinate organizations (in addition to and including the GRD) and for all USACE appropriations.

provisions were made for the payment of administrative expenses for the USAID and the DoS.

We contacted senior financial management officials in each organization and requested financial information regarding amounts disbursed using IRRF 1 and IRRF 2 funds and the amounts of interest penalty payments incurred. Each of the six organizations responded and senior financial management officials of those organizations provided us with assurances that the financial information submitted to us was accurate.

Financial data provided to us on IRRF 1 and IRRF 2 disbursements by each of the six organizations noted above showed that during fiscal years 2003 through 2005, more than \$3.9 billion was disbursed and \$19,332 in interest penalty payments were incurred. For details on IRRF disbursements and interest penalties incurred for the USAID, see Appendix D; for the DoS, see Appendix E; and for Treasury, the OPIC, the USIP, and the USTDA, see Appendix F.

Summary of Disbursements and Interest Penalty Payments. U.S. government disbursements in IRRF 1 and IRRF 2 funds for fiscal years 2003 through 2005 totaled more than \$10.5 billion and interest penalties incurred totaled almost \$1.5 million. The total U.S. government disbursements and interest penalty payments as of September 30, 2005, are shown in Table 2.

Table 2.

**Summary of U.S. Government IRRF Disbursements and Interest Penalty Payments
for Fiscal Years 2003 through 2005
as of September 30, 2005**

IRRF 1			IRRF 2		Grand Total (IRRF 1 & 2)	
	Disbursements	Interest Penalties	Disbursements	Interest Penalties	Disbursements	Interest Penalties
Department of Defense	\$ 501,837,955	\$4,976	\$6,098,593,719	\$1,460,113	\$ 6,600,431,674	\$1,465,089
U.S. Agency for International Development	1,470,157,774	1,576	1,402,062,872	6,461	2,872,220,646	8,037
Department of State	91,162,510	18	948,894,667	11,060	1,040,057,177	11,078
Other U.S. Government Organizations ⁷	5,345,627	217	51,412,507	0	56,758,134	217
Total	\$2,068,503,866	\$6,787	\$8,500,963,766	\$1,477,634	\$10,569,467,632	\$1,484,421

⁷ Other U.S. Government organizations include Treasury, the OPIC, the USIP, and the USTDA.

Conclusion

Generally, based on the information provided to us as illustrated in Table 2, interest penalty payments, when viewed in the larger context of the total disbursements of IRRF funds, were held to a minimum. However, in relation to its established management goals, the Army incurred substantial interest penalty payments in the management of DoD IRRF funds.

We believe the initial steps taken by Army managers to implement corrective measures designed to control and reduce interest penalty payments is a positive approach. However, Army managers need to be more vigilant because IRRF expenditures are expected to peak in fiscal year 2006 and unless the timeliness of payments made with IRRF funds are more closely monitored and prompt actions are taken to address late payments, interest penalty payments may not be reduced and may even increase.

Recommendation, Management Comments, and Audit Response

We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller) identify and monitor interest penalty payments from Iraq Relief and Reconstruction Fund funds to ensure that Army organizations managing Iraq Relief and Reconstruction Fund funds consistently meet established Army goals.

Management Comment. The Office of the Assistant Secretary of the Army (Financial Management and Comptroller) concurred with the finding and recommendation. The Director of Management and Control stated that the Office of the Assistant Secretary of the Army (Financial Management and Comptroller), in conjunction with the Project and Contracting Office, have initiated actions to track prompt payment compliance.

Audit Response. The Office of the Assistant Secretary of the Army (Financial Management and Comptroller) comments to the recommendation are fully responsive. Effective December 4, 2005, the Project and Contracting Office was merged into the U.S. Army Corp of Engineers, Gulf Region Division, to form the Gulf Region Division-Project and Contracting Office.

Appendix A. Scope and Methodology

In August 2005, we initiated this audit, Project No. SIGIR 2005-12, to determine the amounts of Iraq Relief and Reconstruction Fund (IRRF) funds disbursed by the Project and Contracting Office and the U.S. Army Corps of Engineers (USACE), and the amounts of interest penalties incurred by those two organizations on contract invoices paid by the USACE Finance Center located at Millington, Tennessee.

During the course of our audit, we found that the rate of late payments being made by the Army against IRRF disbursements far exceeded the management goals established by the Army for interest penalty payments. Because the information being compiled by the USACE included reasons for late payments and associated interest penalty payments made against those reasons, we relied on that information as support for the Army's performance under prompt payment regulations.

We requested Army financial reports from the Defense Finance and Accounting Service (DFAS) for IRRF funds and computed the total IRRF funds disbursed by the Army as of September 30, 2005, for fiscal years 2003 through 2005. We compared the total Army disbursements to the OMB apportioned amounts for IRRF 1 and IRRF 2 and determined the total amount of the IRRF apportionment that remained to be disbursed by the DoD. The DoD IRRF apportioned funds that remained to be disbursed totaled approximately \$7 billion as of September 30, 2005. We used this data to estimate the amount of interest penalty payments that could be avoided by the Army provided it adhered to the fiscal year 2005 interest penalty payment management goal of \$85 per million dollars disbursed.

We obtained fiscal year-end financial data submitted by the Department of the Army to the Department of the Treasury as of September 30, 2005, that certified the dollar amounts of IRRF 1 and IRRF 2 funds disbursed.⁸ We also obtained certified data from the DFAS attesting to the amount of interest penalties paid as a result of late payments to contractors and vendors.

Similarly, we obtained comparable fiscal year-end financial data from the Department of the Treasury, the U.S. Agency for International Development, the Overseas Private Investment Corporation, and the United States Institute of Peace.

We conducted this performance audit from August through December 2005, in accordance with generally accepted government auditing standards.

Use of Computer-Processed Data. We used financial data provided by various U.S. government organizations to determine the amounts of IRRF funds disbursed and interest penalties incurred but this financial data was not audited by us. Senior financial management officials provided us with assurances that the financial information on IRRF disbursements and interest penalty payments was accurate.

Prior Coverage. There have been no audits performed concerning the IRRF with the same or similar objectives as this audit.

⁸ The IRRF 1 and IRRF 2 funds are discussed on page 1 in the Background Section of this report.

Appendix B. Prompt Payment Act

The Prompt Payment Act was enacted by Public Law 97-177, as amended by Public Law 100-496, and requires U.S. government organizations to make payments to contractors in a timely manner.

Regulations. The Prompt Payment Act regulations are specified at 5 CFR⁹ § 1315 (2005) and contain many rules and standards giving particular attention to construction contracts, progress payments, and various invoice payments. Federal Acquisition Regulation Subpart--32.9, “Prompt Payment,” (March 2005) implements the prompt payment regulations of 5 CFR § 1315. Department of Defense 7000.14R, Department of Defense Financial Management Regulation, Volume 10, Chapter 7, July 2002, contains detailed procedures for determining what constitutes a proper invoice, addresses required documentation needed for payment, defines acceptance which establishes ownership and liability for payment, provides for the subsequent incurrence of interest penalties if payment is not made on dates specified, and cites specifics for computing interest penalty payments. The U.S. Army Corps of Engineers Finance Center followed the policies and guidance contained in Federal Acquisition Regulation Subpart--32.9 and the Department of Defense 7000.14R, Department of Defense Financial Management Regulation, Volume 10, Chapter 7, when making interest penalty payments.

Payment Due Dates. The contract payment terms and conditions are the principal sources governing the submission and payment of invoices. Absent some specific contractual conditions per Federal Acquisition Regulation Subpart--32.9, due dates for making invoice payments are generally the latter of the 30th day after a proper invoice is received from the contractor or the 30th day after government acceptance of supplies delivered or services performed. Payment due dates are further influenced by the availability of discounts offered, contract type, and other stipulations. For example, the Federal Acquisition Regulation Subpart--32.9 provides provisions for determining payment due dates for architect-engineering contracts, construction contracts, food and specified items, and multiple payments.

Two aspects that most strongly influence payment due dates are (i) accepting and annotating a proper invoice as received and (ii) actual or constructive acceptance of goods and services with no disagreements as to quantity, quality, or contractor compliance with requirements. Generally, interest penalties begin to accrue the day after the payment due date and continue up to the date the invoice is paid. The Prompt Payment Act and all implementing regulations also stress that when specifying due dates for payment, contracting officers give full consideration to the time reasonably required by government officials to fulfill their administrative responsibilities under the contract.

Officials responsible for the receipt and inspection of supplies are not to be compelled to approve invoices for payment prior to executing their duties. To prevent such situations, contracting officers may specify a longer period of acceptance so long as such a practice is contained in the solicitation and in the resulting contract to permit the government to conduct proper inspections of a proper invoice or 30 days after the government accepts supplies delivered or a test of supplies delivered or services performed.

⁹ Code of Federal Regulations

Appendix C. Disbursements and Interest Penalty Payments Made by the Department of Defense

The table shows the disbursements and interest penalty payments made by the Department of Defense using Iraq Relief and Reconstruction Fund (IRRF) 1 and 2 funds.¹⁰ We obtained this data by request from the Department of Defense (specifically the Defense Finance and Accounting Service). The table includes data for fiscal years 2003 through 2005 that was reported to the Department of the Treasury as of September 30, 2005. For fiscal years 2003 through 2005, the Department of Defense disbursed approximately \$6.6 billion in IRRF funds and paid \$1,465,089 in interest penalties.

Department of Defense IRRF Disbursements and Interest Penalties as of September 30, 2005							
IRRF 1			IRRF 2		Grand Total (IRRF 1 & 2)		
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties		Disbursements	Interest Penalties
2005	\$ 41,385,396	\$4,723	\$5,233,690,053	\$1,358,867		\$5,275,075,449	\$1,363,590
2004	459,254,814	253	864,903,666	101,246		1,324,158,480	101,499
2003	1,197,745	0	0	0		1,197,745	0
Total	\$501,837,955	\$4,976	\$6,098,593,719	\$1,460,113		\$6,600,431,674	\$1,465,089

¹⁰ The IRRF 1 and IRRF 2 funds are discussed on page 1 in the Background Section of this report.

Appendix D. Disbursements and Interest Penalty Payments Made by the U.S. Agency for International Development

The table shows the disbursements and interest penalty payments made by the U.S. Agency for International Development using Iraq Relief and Reconstruction Fund (IRRF) 1 and 2 funds.¹¹ We obtained this data by request from the U.S. Agency for International Development. The table includes data for fiscal years 2003 through 2005 that was reported to the Department of the Treasury as of September 30, 2005. For fiscal years 2003 through 2005, the U.S. Agency for International Development disbursed approximately \$2.9 billion in IRRF funds and paid \$8,037 in interest penalties.

U.S. Agency for International Development IRRF Disbursements and Interest Penalties as of September 30, 2005						
	IRRF 1		IRRF 2		Grand Total (IRRF 1 & 2)	
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties	Disbursements	Interest Penalties
2005	\$ 391,504,659	\$ 243	\$1,162,555,529	\$6,453	\$1,554,060,188	\$6,696
2004	1,051,464,588	1,333	239,507,343	8	1,290,971,931	1,341
2003	27,188,527	0	0	0	27,188,527	0
Total	\$1,470,157,774	\$1,576	\$1,402,062,872	\$6,461	\$2,872,220,646	\$8,037

¹¹ The IRRF 1 and IRRF 2 funds are discussed on page 1 in the Background Section of this report.

Appendix E. Disbursements and Interest Penalty Payments Made by the Department of State

The table shows the disbursements and interest penalty payments made by the Department of State using Iraq Relief and Reconstruction Fund (IRRF) 1 and 2 funds.¹² We obtained this data by request from the Department of State. The table includes data for fiscal years 2003 through 2005 that was reported to the Department of the Treasury as of September 30, 2005. For fiscal years 2003 through 2005, the Department of State disbursed approximately \$1.04 billion in IRRF funds and paid \$11,078 in interest penalties.

Department of State IRRF Disbursements and Interest Penalties as of September 30, 2005						
	IRRIF 1		IRRIF 2		Grand Total (IRRIF 1 & 2)	
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties	Disbursements	Interest Penalties
2005	\$29,241,889	\$13	\$681,674,124	\$ 5,453	\$ 710,916,013	\$ 5,466
2004	61,904,123	4	267,220,543	5,607	329,124,666	5,612
2003	16,499	0	0	0	16,499	0
Total	\$91,162,510	\$18	\$948,894,667	\$11,060	\$1,040,057,177	\$11,078

¹² The IRRF 1 and IRRF 2 funds are discussed on page 1 in the Background Section of this report.

Appendix F. Disbursements and Interest Penalty Payments Made by Other U.S. Government Organizations

Iraq Relief and Reconstruction Fund (IRRF) funds were also apportioned or allocated to the Department of the Treasury (Treasury), the Overseas Private Investment Corporation (OPIC),¹³ the United States Institute of Peace (USIP), and the U.S. Trade and Development Agency (USTDA).

Table 1 shows the disbursements and interest penalty payments made by the Treasury using IRRF 1 and 2 funds.¹⁴ We obtained this data by request from the Treasury. The table includes data for fiscal years 2003 through 2004 that was reported to the Treasury as of September 30, 2005. For fiscal years 2003 through 2004, the Treasury disbursed approximately \$22 million in IRRF funds but did not incur interest penalties.

Table 1.

Department of the Treasury IRRF Disbursements and Interest Penalties as of September 30, 2005

	IRRIF 1		IRRIF 2			Grand Total (IRRIF 1 & 2)	
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties		Disbursements	Interest Penalties
2005	\$ 0	\$0	\$ 0	\$0		\$ 0	\$0
2004	0	0	18,599,806	0		18,599,806	0
2003	2,972,155	0	0	0		2,972,155	0
Total	\$2,972,155	\$0	\$18,599,806	\$0		\$21,571,961	\$0

Table 2 shows the disbursements and interest penalty payments made by the OPIC using IRRF 2 funds. We obtained this data by request from the OPIC. The table includes data for fiscal years 2004 through 2005 that was reported to the Treasury as of September 30, 2005. For fiscal years 2004 through 2005, the OPIC disbursed approximately \$26 million in IRRF 2 funds but did not incur interest penalties.

¹³ The OPIC was allocated funds by the U.S. Agency for International Development.

¹⁴ The IRRF 1 and IRRF 2 funds are discussed on page 1 in the Background Section of this report.

Table 2. Overseas Private Investment Corporation IRRF Disbursements and Interest Penalties as of September 30, 2005						
	IRRIF 1		IRRIF 2		Grand Total (IRRIF 1 & 2)	
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties	Disbursements	Interest Penalties
2005	\$0	\$0	\$19,013,910	\$0	\$19,013,910	\$0
2004	0	0	6,886,090	0	6,886,090	0
2003	0	0	0	0	0	0
Total	\$0	\$0	\$25,900,000	\$0	\$25,900,000	\$0

Table 3 shows the disbursements and interest penalty payments made by the USIP using IRRF 2 funds. We obtained this data by request from the USIP. The table includes data for fiscal years 2004 through 2005 that was reported to the Treasury as of September 30, 2005. For fiscal years 2004 through 2005, the USIP disbursed approximately \$7 million in IRRF 2 funds but did not incur interest penalties.

Table 3. United States Institute of Peace IRRF Disbursements and Interest Penalties as of September 30, 2005						
	IRRIF 1		IRRIF 2		Grand Total (IRRIF 1 & 2)	
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties	Disbursements	Interest Penalties
2005	\$0	\$0	\$4,390,218	\$0	\$4,390,218	\$0
2004	0	0	2,522,483	0	2,522,483	0
2003	0	0	0	0	0	0
Total	\$0	\$0	\$6,912,701	\$0	\$6,912,701	\$0

Table 4 shows the disbursements and interest penalty payments made by the USTDA using IRRF 1 funds. We obtained this data by request from the USTDA. The table includes data for fiscal years 2004 through 2005 that was reported to the Treasury as of September 30, 2005. For fiscal years 2004 through 2005, the USTDA disbursed approximately \$2.4 million in IRRF 1 funds. However, \$217 in interest penalty payments was made from an appropriation other than IRRF 1.¹⁵

Table 4. U.S. Trade and Development Agency IRRF Disbursements and Interest Penalties as of September 30, 2005						
	IRRIF 1		IRRIF 2		Grand Total (IRRIF 1 & 2)	
Fiscal Year	Disbursements	Interest Penalties	Disbursements	Interest Penalties	Disbursements	Interest Penalties
2005	\$2,129,574	\$217	\$0	\$0	\$2,129,574	\$217
2004	243,898	0	0	0	243,898	0
2003	0	0	0	0	0	0
Total	\$2,373,472	\$217	\$0	\$0	\$2,373,472	\$217

¹⁵ The USTDA did not provide us the year(s) in which it incurred the interest penalties so we assigned the \$217 to fiscal year 2005 for the purposes of this table.

Appendix G. Acronyms

ASA (FM&C)	Assistant Secretary of the Army for Financial Management and Comptroller
CFR	Code of Federal Regulations
DFAS	Defense Finance and Accounting Service
DoD	Department of Defense
DoS	Department of State
GRD	Gulf Region Division
IRRF	Iraq Relief and Reconstruction Fund
OMB	Office of Management and Budget
OPIC	Overseas Private Investment Corporation
PCO	Project and Contracting Office
USACE	U.S. Army Corps of Engineers
USAID	U.S. Agency for International Development
USIP	United States Institute of Peace
USTDA	U.S. Trade and Development Agency

Appendix H. Report Distribution

Department of State

Secretary of State
Senior Advisor to the Secretary and Coordinator for Iraq
U.S. Ambassador to Iraq
Director, Iraq Reconstruction Management Office
Inspector General, Department of State

Department of Defense

Secretary of Defense
Deputy Secretary of Defense
Director, Defense Reconstruction Support Office
Under Secretary of Defense (Comptroller)/Chief Financial Officer
Deputy Chief Financial Officer
Deputy Comptroller (Program/Budget)
Inspector General, Department of Defense

Department of the Army

Assistant Secretary of the Army for Acquisition, Logistics, and Technology
Principal Deputy to the Assistant Secretary of the Army for Acquisition,
Logistics, and Technology
Deputy Assistant Secretary of the Army (Policy and Procurement)
Director, Project and Contracting Office
Commanding General, Joint Contracting Command-Iraq/Afghanistan
Assistant Secretary of the Army for Financial Management and Comptroller
Chief of Engineers and Commander, U.S. Army Corps of Engineers
Commanding General, Gulf Region Division
Auditor General of the Army

U.S. Central Command

Commanding General, Multi-National Force-Iraq
Commanding General, Multi-National Security Transition Command-Iraq
Commander, Joint Area Support Group-Central

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Finance and Accounting Service

Other Federal Government Organizations

Director, Office of Management and Budget
Comptroller General of the United States
Inspector General, Department of the Treasury
Inspector General, Department of Commerce
Inspector General, Department of Health and Human Services
Inspector General, U.S. Agency for International Development
Mission Director-Iraq, U.S. Agency for International Development
President, Overseas Private Investment Corporation
President, U.S. Institute for Peace

Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

U.S. Senate

Senate Committee on Appropriations
 Subcommittee on Defense
 Subcommittee on State, Foreign Operations and Related Programs
Senate Committee on Armed Services
Senate Committee on Foreign Relations
 Subcommittee on International Operations and Terrorism
 Subcommittee on Near Eastern and South Asian Affairs
Senate Committee on Homeland Security and Governmental Affairs
 Subcommittee on Federal Financial Management, Government Information and International Security
 Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia

U.S. House of Representatives

House Committee on Appropriations
 Subcommittee on Defense
 Subcommittee on Foreign Operations, Export Financing and Related Programs
 Subcommittee on Science, State, Justice and Commerce and Related Agencies
House Committee on Armed Services
House Committee on Government Reform
 Subcommittee on Management, Finance and Accountability
 Subcommittee on National Security, Emerging Threats and International Relations
House Committee on International Relations
 Subcommittee on Middle East and Central Asia

Appendix I. Audit Team Members

This audit report was prepared and the audit work was conducted under the direction of Joseph T. McDermott, the Assistant Inspector General for Audit, Office of the Special Inspector General for Iraq Reconstruction. The staff members who contributed to the report include:

John Gannon

Kenneth Littlefield

Robert Murrell

Jozette Wilkinson

Management Comments

Office of the Assistant Secretary of the Army (Financial Management and Comptroller)



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

JANUARY 30, 2006

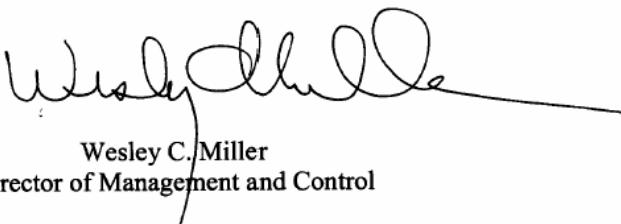
MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDIT,
OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ
RECONSTRUCTION

SUBJECT: Draft Audit Report – Army Management Compliance with the Prompt Payment Act Could Reduce Penalty Expenditures Made from the Iraq Relief and Reconstruction Fund – SIGIR-06-002

My office has reviewed the Office of the Special Inspector General for Iraq Reconstruction recommendation in subject draft audit and concurs in the recommendation.

Recommendation: We recommend that the Assistant Secretary of the Army (Financial Management and Comptroller) (ASA(FM&C)) identify and monitor interest penalty payments from Iraq Relief and Reconstruction Fund funds to ensure that Army organizations managing Iraq Relief and Reconstruction Fund funds consistently meet established Army goals.

Army/Command Comments: Concur. The Office of the ASA(FM&C), in conjunction with the Project and Contracting Office (PCO) have initiated actions to track prompt payment compliance on the weekly briefing for the Secretary of the Army on Iraq Reconstruction. In addition, prompt payment considerations are frequently discussed within command channels to maintain visibility and focus on meeting the Army goal of \$85 per every million disbursed on contract payments. The ASA(FM&C) is committed to meeting this same standard as would be met under peacetime conditions under a stable environment.



Wesley C. Miller
Director of Management and Control